

TAX CODE CHAPTER 191. MISCELLANEOUS OCCUPATION TAXES

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE H. BUSINESS PERMIT TAXES

CHAPTER 191. MISCELLANEOUS OCCUPATION TAXES

SUBCHAPTER E. OIL WELL SERVICE

Sec. 191.081. DEFINITION. In this subchapter, "oil well service" means cementing the casing seat of an oil or gas well, shooting, fracturing, or acidizing the sands or other formations of the earth in an oil or gas well, or surveying or testing the sands or other formations or their contents in an oil or gas well by using instruments or equipment at least a part of which are located in the well bore when the survey or test is made.

Acts 1981, 67th Leg., p. 1723, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.082. TAX IMPOSED. (a) A tax is imposed on each person who engages in the business of providing any oil well service for another for consideration and who:

(1) owns, controls, or furnishes the tools, instruments, and equipment used in providing the oil well service; or

(2) uses any chemical, electrical, or mechanical process in providing the service at any oil or gas well during and in connection with the drilling and completion, or reworking or reconditioning, of the well.

(b) The tax imposed by this subchapter does not apply to the business of drilling or reworking an oil or gas well or to a service incidental to that business performed by persons engaged in the business of drilling or reworking.

Acts 1981, 67th Leg., p. 1723, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.083. TAX RATE. The rate of the tax imposed by this subchapter is 2.42 percent of the gross amount received for service after deduction for the reasonable value at the well of material used, consumed, or expended in or incorporated into the well.

Acts 1981, 67th Leg., p. 1723, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.084. REPORT AND TAX PAYMENT. (a) A person subject to the tax shall report the amount received from taxable services during the preceding calendar month.

(b) The comptroller shall prescribe and furnish the form for the report.

(c) The person subject to the tax shall pay the tax to the comptroller at the comptroller's office in Austin on or before the 20th day of each month.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.085. RECORD. (a) A person subject to the tax shall keep a complete record of business transacted and any other information the comptroller requires.

(b) The person shall keep the record open for four years for inspection by the comptroller or the attorney general.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.65, eff. Oct. 1, 1999.

Sec. 191.086. PENALTY. A person who violates this subchapter forfeits and shall pay to the state a penalty of not less than \$25 nor more than \$500. A separate offense is committed each day on which a violation occurs.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.087. FAILURE TO FILE REPORT OR PAY TAX. (a) If a person taxed under this subchapter fails to file a report required by this subchapter or to pay the tax imposed by this subchapter when due, the person forfeits five percent of the amount of tax due as a penalty. If the person then fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional penalty of five percent of the amount of the tax.

(b) The minimum penalty imposed by this section is \$1.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 452, ch. 93, Sec. 6, eff. Sept.

1, 1983.

Sec. 191.088. STATE TAX LIEN. The taxes, penalties, interests, and costs that a person owes the state under this subchapter are secured by a preferred lien, first and prior to other existing liens, contract or statutory, legal or equitable, on all property of the person used in the person's business.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.089. PERMIT REQUIRED. A person subject to the tax imposed by this subchapter shall acquire the permit required by Section 182.086 of this code. Application, issuance, and suspension of the permit are subject to Sections 182.087 and 182.088 of this code.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. TAX RECEIPT

Sec. 191.101. TAX RECEIPT AS PERMIT. (a) The receipt from the comptroller for tax payment is the permit to do business unless a separate permit is required by law.

(b) A person may not receive a permit to do or continue to do business in this state until the person pays the tax imposed by this chapter.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.119, eff. Sept. 1, 1997.

Sec. 191.102. DISPLAY OF PERMIT; PENALTY. (a) A person commits an offense if the person, without displaying the receipt for the tax imposed by this chapter, engages in a business taxed under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$50.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 4769, ch. 840, Sec. 2, eff. Aug. 29, 1983.

SUBCHAPTER G. NATURE AND ALLOCATION OF TAX

Sec. 191.121. NATURE OF TAX. A tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1725, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.122. ALLOCATION OF TAX. One-fourth of the revenue collected under this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the credit of the general revenue fund.

Acts 1981, 67th Leg., p. 1725, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 6, eff. Sept. 1, 1984.

SUBCHAPTER H. ATTORNEYS

Sec. 191.141. DEFINITIONS. In this subchapter:

(1) "Attorney" means a person licensed to practice law in this state.

(2) "Tax year" means June 1 of one year through May 31 of the following year.

(3) "State bar" means the State Bar of Texas.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 10.12, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.142. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on each attorney.

(b) The tax rate is \$200 per year to be paid in advance.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 10.12, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.143. TIME FOR PAYMENT OF TAX. (a) Except as provided by Subsection (b), each attorney shall pay the tax for each tax year on or before June 1 of the tax year.

(b) If a person is licensed to practice law after the beginning of the tax year or resumes active status to practice law

after the beginning of the tax year, the person being licensed or resuming active status shall pay the tax imposed by this subchapter in proportion to the number of months for which the person will be licensed during that tax year. If a person is licensed after the beginning of a calendar month, the month in which the person is licensed shall count as a month for purposes of payment of taxes under this subsection.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 10.12, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.1431. METHOD OF COLLECTION. The supreme court shall administer the collection of taxes under this subchapter. Added by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.144. EXEMPTIONS. The tax imposed by this subchapter does not apply to:

- (1) an attorney who is 70 years of age or older; or
- (2) an attorney who has assumed inactive status under rules governing the licensing of attorneys in this state.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 10.12, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.1441. SUSPENSION AND REINSTATEMENT. (a) The supreme court shall suspend from the practice of law a person who does not pay, within 90 days after the date it is due, the tax imposed by this subchapter or a penalty relating to that tax.

(b) An attorney who is suspended under Subsection (a) shall be reinstated on payment of the tax and any interest and penalties.

Added by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.1442. PENALTY AND INTEREST. (a) A penalty of five percent of the tax due shall be imposed on a person who fails to pay the tax imposed or file a report required by this chapter when due, and, if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, an

additional five percent penalty shall be imposed.

(b) The yearly interest rate on delinquent tax imposed by this chapter is 12 percent. Delinquent taxes draw interest beginning 60 days from the due date.

Added by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.1443. RULES. The state bar, with the approval of the supreme court, shall have the authority to adopt policies and rules for the administration and collection of the tax imposed by this chapter and for the exemptions from that tax and shall have the authority to compromise interest and penalties attributable to the tax imposed by this chapter.

Added by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.

Sec. 191.145. DISTRIBUTION OF TAX. The supreme court shall forward tax received under this subchapter to the state for deposit:

(1) twenty-five percent of the taxes shall be deposited to the credit of the foundation school fund; and

(2) seventy-five percent of the taxes shall be deposited to the credit of the general revenue fund.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 10.12, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 66, Sec. 1, eff. June 1, 1995.